



TOWN OF TEWKSBURY BOARD OF HEALTH

Raymond Barry, Chairman
Charles Roux, Vice Chair
Christine Kinnon, Clerk
Kathleen M. Brothers
Phillip L. French

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES January 21, 2016

The meeting was called to order by Raymond Barry, Chairman, at 6:00 p.m. at the Tewksbury Town Hall. Present at the meeting were Charles Roux, Vice-Chairman, Christine Kinnon, Clerk, Kathleen Brothers, and Phillip French.

Public Hearings

Public Hearing to obtain a variance from the requirement of the Tewksbury Board of Health Regulations Chapter 7 Dumpsters, Section 7.7, Enclosure, Subsection 7.7.1, that all Dumpsters shall be enclosed on all four sides with a 6' fence and servicing door.

Located at Stadium Plaza, 10 Main Street, Tewksbury, MA

Applicant: Demoulas Super Markets, 10 Main Street, Tewksbury, MA

MOTION: Ms. Brothers made the motion to open the public hearing for Demoulas Super Markets, 10 Main Street, Tewksbury, MA; seconded by Ms. Kinnon and the motion unanimously carried 5-0.

Mr. Barry read the public notice aloud.

Present on behalf of the applicant was Ms. Ting Chang, President of TC Civil Design LLC. Ms. Chang explained that she is present to request a variance for three dumpsters on the site; two of which are compactors. All three dumpsters are existing, self contained units and located at the rear of the building.

Ms. Brothers asked if a fence will be installed and Ms. Chang noted that there will not be.

Ms. Kinnon asked if any additional dumpsters will be added and Ms. Chang noted that there will be no additional dumpsters and that all three are existing. Ms. Kinnon asked why a fence is not being installed and Ms. Chang explained that the dumpsters can only be accessed from inside the store and directly discharge into the truck for pickup.

Mr. French noted that a fence in this situation would likely create a worse situation and that he feels there is no real good reason to require the fence.

Mr. Barry noted that it is his opinion that the unwritten intent of the fence regulation is to prevent someone from throwing trash into the container and/or to prevent an open container from blowing trash into an adjacent neighborhood. These dumpsters are self contained and only accessed through the store.

Mr. Barry opened the hearing to the public and no one came forward to comment.

MOTION: Ms. Brothers made a motion to grant a variance of the Tewksbury Board of Health Regulations Chapter 7 Dumpsters, Section 7.7 for the dumpsters located at Demoulas Super Markets, Stadium Plaza, 10 Main Street; seconded by Ms. Kinnon and the motion unanimously carried 5-0.

MOTION: Ms. Kinnon made the motion to close the public hearing for Demoulas Super Markets, 10 Main Street, Tewksbury, MA; seconded by Ms. Brothers and the motion unanimously carried 5-0.

Public Hearing to obtain a variance from the requirement of the Tewksbury Board of Health Regulations Chapter 7 Dumpsters, Section 7.7 Enclosure, Subsection 7.7.1 that all Dumpsters shall be enclosed on all four sides with a 6' fence and servicing door.

Located at 875 East Street, Tewksbury, MA

Applicant: Demoulas Super Markets, 875 East Street, Tewksbury, MA

MOTION: Ms. Brothers made the motion to open the public hearing for Demoulas Super Markets, 875 East Street, Tewksbury, MA; seconded by Ms. Kinnon and the motion unanimously carried 5-0.

Mr. Barry read the public notice aloud.

Present on behalf of the applicant was Ms. Ting Chang, President of TC Civil Design LLC. Ms. Chang explained that she is present to request a variance from an enclosure for a dumpster. The site currently has two compactors and a dumpster. The two compactors are self contained and located at the rear of the building. In addition, there is a dumpster located at 881 East Street at the side of the loading dock. Ms. Chang explained that this particular dumpster is mainly for Demoulas mechanicals and/or equipment and that a fence would prohibit access to the dumpster due to its location.

Ms. Brothers explained that she understands the concept with the two compactors; however, she is concerned with the dumpster as it does not seem like it belongs where it is.

Mr. Roux asked if this is a permanent dumpster and Ms. Chang confirmed this and noted that there is a concrete pad underneath and that the dumpster has always been there. Mr. Roux asked where the mechanicals, etc. come from and Ms. Chang explained these are items such as condensers, repair equipment parts, etc. from all of the Market Basket stores.

Mr. French questioned why a dumpster that is used to service all of the stores would be put in this location as it is located right in front of a loading dock door in an area where there are many trucks trying to move around. Mr. French suggested a better location for this dumpster be found. Mr. French noted that he also does not feel this is the proper way to dispose of refrigeration parts and these types of materials. Mr. French requested Ms. Chang find out exactly what is being disposed of and where it is coming from.

Mr. Barry explained that another concern is that this is an open container and, according to the plan, there are wetlands and residential area nearby.

Mr. Barry opened the hearing to the public.

John Rizzo, 60 Level Lane, Tewksbury, MA came forward and showed the location of his property in comparison to the Demoulas warehouse. Mr. Rizzo asked where the exact location of the dumpster is and the Board members showed the location of the dumpsters and new addition on the plans.

Thomas E. Desmond, 112 Whittemore Street, Tewksbury, MA came forward. Mr. Desmond explained that they have never had a problem with smells; however, the noise is a concern as this is already a very loud site with all of the trucks, etc. Mr. Desmond noted that at times you can “feel the sound through the ground”. Mr. Barry noted that there are town regulations in place for noise disturbance. Discussion took place on the times the dumpster is being used and Mr. Desmond noted that they have heard noise from the dumpster in the middle of the night.

Ms. Brothers asked if Mr. Desmond is satisfied with the location of the dumpster and if he feels it should be enclosed and Mr. Desmond noted that the location is not a problem, but he does feel it should be enclosed.

Mr. Barry read Section 7.7.9.1 aloud; “containers and short term permits are not to be filled between the hours of 10:00 p.m. and 7:00 a.m., at which time the lids are to be closed and locked”. Mr. Barry noted that this could also an issue of whether the noise is from the dumpster being filled or emptied. Ms. Chang noted that she will ensure Demoulas is aware of the regulations regarding the dumpsters. Mr. Desmond noted that the noise could also be the trucks being loaded and unloaded.

Mr. Barry noted that the noise concerns have been noted. It was suggested that Mr. Desmond contact the Health Department to formerly make a complaint regarding the noise issues.

Discussion took place on continuing the entire matter rather than approving just the two compactors and waiting to make a determination on the other dumpster.

Mr. French suggested Ms. Chang research what is being disposed, where it is coming from, and if there is another possible location and, if not, it should be enclosed. Ms. Kinnon requested the schedule for the use of the dumpster also be provided. Mr. Roux noted that this may also not be the correct type of container if this is hazardous materials.

Mr. Barry noted that the next meeting is February 18, 2016.

MOTION: Mr. Roux made the motion to continue the public hearing for Demoulas Super Markets, 875 East Street, Tewksbury, MA to February 18, 2016 at 6:00 p.m.; the applicant shall provide additional information on the use of the dumpster; seconded by Ms. Kinnon and the motion unanimously carried 5-0.

New Business

FY 16 Budget Submittal

Mr. Barry noted that the previous Director, Lou-Ann Clement, had presented the FY16 budget prior to her departure. Mr. Barry reviewed some of the capital requests for FY16; which include purchase of People GIS software to help automate permit requests and add-on to the current town's system and a printer.

Approval of Minutes of July 16, 2015

Mr. Barry noted that there is a new recording secretary, Melissa Johnson.

Discussion took place on the delay in receiving the meeting minutes in the past and the importance of having the previous meeting minutes for each meeting.

Ms. Brothers noted a grammatical correction on the page of 5.

MOTION: Ms. Kinnon made the motion to approve the July 16, 2015 meeting minutes as edited; seconded by Ms. Brothers and the motion unanimously carried 5-0.

Other Business:

Discussion took place on the Board membership, the two vacancies, and the hope for qualified candidates.

Mr. Barry explained that he is in receipt of an email from Officer Welch regarding a grant and noted that he has not yet responded as he would prefer to wait until the new Health Director has started to make a formal decision on this.

Announcements:

Mr. Barry explained that a public hearing on proposed changes to the combined Chapter 11 and Chapter 12 of the tobacco regulations will be held on March 17, 2016. This public hearing could not be scheduled for the February 18, 2016 meeting as there was not sufficient time to notify the public of a public hearing due to the time needed by Ron to review this. Ms. Brothers noted that she has received a lot of negative feedback on changing the age to 21. Mr. French noted that he is opposed to increasing the age to 21. Mr. Barry discussed the intent being to prevent younger aged people from using tobacco, but not restrict who can sell it.

Mr. Roux noted that the town of Tyngsboro just changed all of their tobacco regulations and with the exception of changing the age from 18 to 21. Mr. Barry noted that there have also been two establishments in town who have received violations for selling to the under aged, Mobil on the Run on Andover Street (second violation) and Route 38 Smoke Shop. Discussion took place on the need to have a listing of the amount of permits issued in town and a list of when there were different sale infractions.

Adjourn

MOTION: Mr. Roux made the motion to adjourn at 7:20 p.m.; seconded by Mr. French and the motion unanimously carried 5-0.

Approved: March 17, 2016